

**FILED**

NOV 21 2014

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

GRANT PRICE  
CLERK, U.S. BANKRUPTCY COURT  
WESTERN DISTRICT OF OKLAHOMA  
BY: *graham* DEPUTY

In re:

GENERAL ORDER

No. 2014-3

RESCISSION OF GENERAL ORDER 2014-1  
PAYMENT OF FILING FEE BY CHAPTER 7 TRUSTEE  
PURSUANT TO 11 U.S.C. § 363(f)

On December 1, 2013, a filing fee promulgated by the United States Judicial Conference in the amount of \$176.00 became effective for 11 U.S.C. § 363(f) Motions to Sell Property Free and Clear of Liens filed by the Chapter 7 trustee, hereinafter referred to as § 363(f) Fee. General Order 14-1 permitted this filing fee to be paid upon conclusion of the proposed sale.

By memorandum dated October 30, 2014 (attached), Judge John D. Bates, Director of the Administrative Office of the United States Courts, advised that the question whether payment of the filing fee for 11 U.S.C. § 363(f) Motions to Sell Property Free and Clear of Liens could be deferred was referred to the Court Administration and Case Management (CACM) Committee. At its June 2014 meeting, the CACM Committee agreed that the fee is due when the motion is filed and should not be deferred.

IT IS ORDERED that the Chapter 7 trustee shall pay the § 363(f) Fee at the time that the Motion to Sell Property is filed.

IT IS FURTHER ORDERED that General Order 14-1 is rescinded.

DATED this 21<sup>st</sup> day of November, 2014.

*[Signature]*  
\_\_\_\_\_  
Chief Judge Sarah A. Hall

*[Signature]*  
\_\_\_\_\_  
Judge Niles L. Jackson



ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

HONORABLE JOHN D. BATES  
Director

WASHINGTON, D.C. 20544

October 30, 2014

MEMORANDUM

To: Chief Judges, United States Courts  
Circuit Executives  
Federal Public/Community Defenders  
District Court Executives  
Clerks, United States Courts

From: Judge John D. Bates

A handwritten signature in black ink, appearing to read "John D. Bates".

RE: MISCELLANEOUS FEES (INFORMATION)

At its September 2014 session, the Judicial Conference approved several changes to the appellate, district, and bankruptcy court miscellaneous fee schedules,<sup>1</sup> effective December 1, 2014, as discussed below.

**Court of Appeals Miscellaneous Fee Schedule**

First, the Judicial Conference approved an amendment to Item 1 of the Court of Appeals Miscellaneous Fee Schedule, which assesses a \$500 fee upon filing an appeal to a court of appeals (referred to as the “docketing fee” in the schedule). When an appeal is filed, the district clerk is required to collect the docketing fee, in addition to a \$5 fee separately prescribed under 28 U.S.C. § 1917. In response to numerous inquiries seeking clarification of the total amount required for collection upon filing an appeal, the Conference agreed to include a note clarifying that the \$500 docketing fee is to be collected in addition to the \$5 fee prescribed under 28 U.S.C. § 1917.

**District Court Miscellaneous Fee Schedule**

Next, the Judicial Conference approved an amendment to the District Court Miscellaneous

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<sup>1</sup> The Court of Appeals Miscellaneous Fee Schedule is issued pursuant to 28 U.S.C. § 1913; the District Court Miscellaneous Fee Schedule is issued pursuant to 28 U.S.C. § 1914; and the Bankruptcy Court Miscellaneous Fee Schedule is issued pursuant to 28 U.S.C. § 1930.

Fee Schedule that incorporates the long-standing \$25 processing fee assessed for each violation notice processed through the Central Violations Bureau (CVB). Congress authorized the Judicial Conference to prescribe the CVB processing fee in 2005,<sup>2</sup> but it was never incorporated into the fee schedule. The fee, which remains unchanged at \$25, will be added as a new item (Item 15) to the District Court Miscellaneous Fee Schedule.

### **Bankruptcy Court Miscellaneous Fee Schedule**

Finally, the Judicial Conference approved several amendments to the Bankruptcy Court Miscellaneous Fee Schedule. First, the Conference approved an increase of \$50 to the fee assessed under Item 14 of the schedule (from \$157 to \$207) when a direct bankruptcy appeal is accepted by a court of appeals. This adjustment brings parity to the fees for appealing a bankruptcy court order in a court of appeals.<sup>3</sup>

Second, the Conference approved two amendments to the Bankruptcy Court Miscellaneous Fee Schedule that were developed in connection with a new national policy establishing filing and notice procedures for requests to redact personal identifiers from large volumes of court filings in multiple cases, including closed cases.<sup>4</sup> The Conference established a \$25 fee (Item 21) to file a motion to make redactions to previously filed records in a bankruptcy case. The fee is intended to be charged for each affected case, but courts may waive the fee under appropriate circumstances. The Conference also endorsed a new exception to the reopening fee for a closed bankruptcy case (Item 11) to clarify that the reopening fee does not apply if redaction is the only purpose for reopening the case.<sup>5</sup>

Separately, a number of bankruptcy courts have raised questions about a recently adopted fee, which became effective December 1, 2013, for filing a motion to sell property free and clear

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<sup>2</sup> See Public Law No. 108-447 (118 Stat. 2809) (2005); JCUS-SEP 04, p. 12.

<sup>3</sup> Currently, the fees assessed for filing a direct appeal from a bankruptcy court to a court of appeals (as authorized under 28 U.S.C. § 158(d)(2)) under Item 14 of the Bankruptcy Court Miscellaneous Fee Schedule total \$450, which is \$50 less than the docketing fee assessed under Item 1 of the Court of Appeals Miscellaneous Fee Schedule for filing an appeal with a court of appeals from a district court or bankruptcy appellate panel.

<sup>4</sup> The new policy is included in Volume 10, Chapter 3 of the *Guide to Judiciary Policy*.

<sup>5</sup> The new redaction policy provides that courts should not typically reopen a case solely to address a request to redact a case record, and the Conference agreed that if a court nevertheless decides to reopen a case solely to redact a record, then the reopening fee should not be assessed. See *Guide to Judiciary Policy*, Vol. 10, Ch. 3, § 325.60.

of liens in a bankruptcy case under 11 U.S.C. § 363(f).<sup>6</sup> Specifically, courts have asked whether payment of the fee may be deferred pending the sale of the property identified in the motion. The Bankruptcy Court Miscellaneous Fee Schedule does not currently address deferral of this fee. The Court Administration and Case Management (CACM) Committee considered this question at its June 2014 meeting, and agreed that the fee is due when the motion is filed and should not be deferred. The CACM Committee therefore declined to recommend that the Judicial Conference consider any amendments to the fee at this time.

Clean and redlined versions of the revised fee schedule incorporating the changes discussed above are attached. In addition, the Administrative Office will be providing updated fee charts explaining how courts should administer these fee changes for accounting purposes. If you have any questions concerning changes to the Court of Appeals Miscellaneous Fee Schedule, please contact Gloria Malkin by email or at 202-502-1525. For questions concerning changes to the District Court Miscellaneous Fee Schedule, please contact Daryll Butler by email or at 202-502-1503. For questions concerning changes to the Bankruptcy Court Miscellaneous Fee Schedule, please contact Mary Fritsche by email or at 202-502-3055.

Attachments

cc: Circuit Librarians

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<sup>6</sup> That fee is incorporated in Item 19 of the Bankruptcy Court Miscellaneous Fee Schedule, which provides, in relevant part: “For filing the following motions, \$176: . . . To sell property of the estate free and clear of liens under 11 U.S.C. § 363(f). . . .”